

MINUTES
BOARD OF ADJUSTMENT
November 2, 2006

THOSE IN ATTENDANCE

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| Gary Soule, Chairman | Jason Jaggi, City Planner |
| Anne Martin | Kevin O'Keefe, City Attorney |
| Rick Bliss | |
| Mel Disney | |
| Victor Cohen | |

Chairman Soule called the meeting to order at 5:00 p.m. He introduced himself and asked each member to do the same.

MINUTES

The minutes of the meeting of September 7, 2006 were presented for approval. The minutes were approved, after having been previously distributed to each member.

Chairman Soule welcomed everyone to the meeting. He stated that the members of this Board are appointed by the Mayor and approved by the City's Board of Aldermen and serve without monetary compensation. He indicated that a full compliment of the Board consists of 5 members and that four members must vote in favor of a variance in order for the requested variance to be granted. He stated that the applicant must demonstrate practical hardship with regard to the property in order to justify the granting of a variance. He then advised that this is a duly advertised, duly noted meeting and that the proceedings are of record. He reminded everyone that all testimony is tape-recorded and the minutes produced from this recording. He then asked that all individuals wishing to speak to please speak clearly. He stated that generally, the City will present its exhibits first, after which the applicant will make their presentation, then questions/comments from the Board members will ensue after which audience comments will be solicited and finally, a vote will take place.

Chairman Soule indicated that there is one matter to consider this evening and confirmed that the applicant was in attendance.

AN APPEAL FROM PAUL PIERRON, RESTAURANT OWNER, FOR THE PROPERTY AT
44 N. BRENTWOOD BOULEVARD (CURRENTLY OPERATING AS TEJAS)

Everyone who was in attendance at the time of swearing-in who wished to speak in regards to the variance request was sworn-in by the recording secretary.

Chairman Soule asked Jason Jaggi to provide an overview of the proposal.

Jason Jaggi began the PowerPoint presentation, indicating that this is an unusual variance request as it is a request for a parking variance versus the typical area variance the Board is accustomed to seeing. He advised the members that the variance is as it relates to an addition to a commercial building located in the Central Business District (CBB). A slide depicting an aerial photo of the subject property and the area surrounding it was presented. Jason indicated that a portion of the subject Mary Brent building is currently occupied by Tejas Restaurant (located at the southeast corner of Brentwood Boulevard and Maryland Avenue). He stated that there are two types of parking requirements in this case; one being the parking required for the restaurant use itself and secondly, the parking required for the commercial space (square footage) in the CBD. He advised the members that all restaurants are conditional uses and as such, operate under a Conditional Use Permit (CUP) approved by the City's Board of Aldermen upon recommendation by the City's Plan Commission.

Mel Disney asked if this Board is making a recommendation to the Board of Aldermen with respect to the variance request or if this Board has the rule making authority.

Kevin O'Keefe indicated that this Board exclusively decides whether the variance request will be approved or denied.

Jason Jaggi explained that restaurants over 3,000 square feet are required to provide both employee and customer off-street parking although currently there is a moratorium on the employee parking requirement for those restaurants located in the CBD. He stated the required customer parking is calculated on a pro-rated basis. He indicated that he is providing this CUP information to the Board for informational purposes only. He stated that the Zoning Ordinance requires parking be provided for the square footage of the addition only for additions that are less than 20% of the existing square footage (refer to Article 31 (Parking and Loading Requirements), Section 31.2, Paragraph 3) for buildings constructed prior to April 14, 1959. He stated that since this addition is 530 square feet, 2 additional spaces would be required. He indicated that an outdoor dining area consisting of an awning with rolled down windows currently occupies the space for which the applicant wishes to expand.

Anne Martin asked if restaurants are now given more leeway.

Jason Jaggi indicated that if this space were a retail use, off-street parking would not be required at all.

Chairman Soule referred to staff's report and asked if the 1 space per 300 gross square feet has been a requirement since 1959.

Jason Jaggi stated that according to County Records, the subject building was constructed in 1948 and would believe that provisions of Article 31 (Off-Street parking regulations) went into effect in 1959.

Rick Bliss asked what defines a restaurant.

Kevin O'Keefe stated that the practical response would be an establishment that has a cooking source, staff, accounting records and a uniform menu.

Jason Jaggi advised the members that as part of the CUP application process, the City requires a floor plan and kitchen schedule. He indicated that this restaurant (Oceana Bistro) has not yet applied for a CUP.

Kevin O'Keefe requested that the City's Ordinances, specifically the Zoning Ordinance Article 31.2 (3) as well as the application and supporting documents be entered into the record. City staff's presentation is also entered into the record.

Mr. Pierron explained that he is asking for this parking variance as there are no other alternatives to provide the off-street parking. He stated the space will be completely gutted for the new upscale seafood restaurant. He stated that somewhere between 1.2 and 1.5 million dollars will be spent on rehab. He stated the existing awning can be used approximately 10 months out of the year and would like to make that area a permanent structure. He stated that he believes there is significant area parking and that valet service will be provided on Friday and Saturday evenings. He stated that they considered re-striping the garage behind the building, but that the current spaces are 9-foot wide and they did not believe narrowing them would be a good option. He stated that the building owner is providing him with 76 spaces in the garage during the evenings and weekends.

Anne Martin asked if Clayton has a minimum width for sidewalks.

Jason Jaggi indicated that he did not believe so.

Anne Martin asked if more foot traffic is expected.

Jason Jaggi indicated there may be some more foot traffic, but does not believe it will have a major impact.

Mr. Pierron stated that the building sits on the property line and that they will stay within that current location. Samples of the proposed copper roofing were presented.

Chairman Soule asked about the 76 spaces being provided by the building owner, which Mr. Pierron earlier referred to.

Mr. Pierron stated that those 76 spaces will be made available for restaurant use after 6:00 p.m. during the week.

Chairman Soule asked what his proposed hours of operation are.

Mr. Pierron replied from 11 a.m. to 10 p.m. seven days a week.

Anne Martin asked if those 76 spaces are used by others.

Mr. Pierron indicated that those spaces are used during the day by office occupants. He stated after 5 p.m. the rest of the building is vacated.

Chairman Soule asked Mr. Pierron if he would be willing to have the variance granted on the condition that he provides valet service on Friday and Saturday evenings and the rental or purchase of two additional spaces in the area.

Mr. Pierron replied “yes”. He stated there are spaces available behind Cardwells.

Rick Bliss commented that if many spaces are occupied by the restaurant employees that will result in fewer spaces for customers.

Jason Jaggi stated that many Clayton restaurants offer valet parking service to entice customers. He stated that more spaces are available in the evening hours when the offices are closed.

Mr. Pierron stated that it is very important to have ample customer parking.

Rick Bliss commented that he believes better lighting is needed for the garage.

Mr. Pierron agreed.

Kevin O’Keefe commented that he believes the hardship asserted by the applicant is that there is no location to create two additional parking spaces.

Mr. Pierron agreed.

Kevin O’Keefe advised the members that the variance goes with the land, so any future tenants would be obligated to continue with the same conditions for which the variance may be granted or return to this Board to seek relief from the conditions.

Chairman Soule asked if staff believes this space will continue to be occupied by a restaurant.

Jason Jaggi replied “yes”.

Kevin O’Keefe commented that if this Board places conditions on the variance approval, that the applicant should file the conditions with the St. Louis County Recorder of Deeds and provide proof of filing to the City.

Chairman Soule asked if the CUP will still have to go through the Plan Commission and/or Board of Aldermen for approval.

Kevin O’Keefe replied “yes”.

Mr. Kent Hershfelder, representing the seller of Tejas, commented that Clayton is in a war with Maplewood, Richmond Heights and Kirkwood and that there will be a problem when the I-64 Project commences. He stated that Mr. Pierron is spending a lot of money on this project. He stated he does not believe parking at lunchtime will be a problem as most restaurant customers during lunch hours are derived from foot traffic. He stated he believes that the 76 spaces will provide all the applicant's parking needs and encouraged the Board to grant the variance.

Anne Martin asked how or who will control the parking spaces.

Mr. Hershfelder indicated that there will be a sign at the garage entrance in the evenings.

Chairman Soule asked if Tejas is closed.

Mr. Hershfelder replied "no"; he stated they tried to keep the new restaurant quiet and had an issue with the City's sign that was posted at the property. He advised the members that they relocated the sign so it was not so obvious.

Jason Jaggi announced that there is a legal requirement to post the notice of public hearing on the property.

Chairman Soule asked when Tejas will be closing.

Mr. Pierron stated he believed they will close the end of November/first of December.

Chairman Soule entered a motion to approve the variance as requested with the conditions that valet parking be provided on Friday and Saturday evenings; that the applicant rent or purchase two additional parking spaces in the area and that the conditions be filed with the St. Louis County Recorder of Deeds Office and proof of filing be provide to the City. The motion was seconded by Anne Martin and unanimously approved by the Board.

Chairman Soule asked Mr. Pierron when he plans to open the new restaurant.

Mr. Pierron indicated he hopes to open early March, 2007.

Being no further business for the Board of Adjustment, this meeting adjourned at 5:50 p.m.

Recording Secretary